

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NEIL ZLOZOWER,

Plaintiff,

- against -

PASTE MEDIA GROUP LLC,

Defendant.

Docket No. 17-cv-02364

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Neil Zlozower (“Zlozower” or “Plaintiff”), by and through his undersigned counsel, as and for his Complaint against Defendant Paste Media Group LLC (“Paste” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of Rock ‘n’ Roll music band Guns N’ Roses owned and registered by Zlozower, a California-based photojournalist. Accordingly, Zlozower seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Zlozower is a professional rock 'n' roll photographer with over 45 years of experience in the music business. His iconic work has appeared on music album covers, magazines, advertisements and various other print and digital publications. Having photographed such artists as Michael Jackson, Led Zeppelin, Van Halen, Eric Clapton and the Rolling Stones, Zlozower has built an enviable portfolio comprised of some of the most iconic images in music history. His exclusive photographs have created a lucrative market in Mr. Zlozower's works, which have both been sold as limited-edition prints to buyers throughout the continental United States and licensed to various media outlets, artists and collectors for a fee. Zlozower has a business address of 660 N. Sweetzer Avenue, #303, Los Angeles California 90048.

6. Upon information and belief, Paste is a limited liability company duly organized and existing under the laws of the State of Delaware, with a business address of 350 7<sup>th</sup> Avenue, New York, New York 10001. At all times material hereto, Paste has owned and operated a website at the following URL: [www.pastemagazine.com](http://www.pastemagazine.com) (the "Website").

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff's Ownership of the Photograph**

7. In the late 1980s, Zlozower photographed rock 'n' roll band Guns N' Roses (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Zlozower is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the U.S. Copyright Office and was given Copyright Registration Number VA-1-867-118.

**B. Defendant's Infringing Activities**

10. Upon information and belief, on or about January 5, 2016, Paste ran an article on its Website entitled *Guns N' Roses, LCD Soundsystem, Calvin Harris To Headline Coachella 2016*. See <https://www.pastemagazine.com/articles/2016/01/guns-n-roses-lcd-soundsystem-calvin-harris-to-head.html>. The article prominently featured the Photograph. A true and correct copy of the article is attached hereto as Exhibit B.

11. Paste did not license the Photograph from Plaintiff for its article, nor did Paste have Plaintiff's permission or consent to publish the Photograph on its Website.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST PASTE)**  
**(17 U.S.C. §§ 106, 501)**

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Paste infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Paste is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Paste have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

16. As a result of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover his damages and Defendant's profits pursuant to 17 U.S.C. § 504(b).

17. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

18. Plaintiff further is entitled to recover his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

19. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Paste be adjudged to have infringed upon Plaintiff's copyright in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorney's fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and

6. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: March 31, 2017  
Valley Stream, New York

LIEBOWITZ LAW FIRM, PLLC

By: /s/ Kamanta C. Kettle  
Kamanta C. Kettle

Kamanta C. Kettle  
11 Sunrise Plaza, Suite 305  
Valley Stream, New York 11580  
Telephone: (516) 233-1660  
KK@LiebowitzLawFirm.com

*Attorneys for Plaintiff Neil Zlozower*